

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

DDR HOLDINGS, LLC

§

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VS.

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CIVIL ACTION NO. 2:06-CV-42(JRG)

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HOTELS.COM, ET AL.

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**Pretrial Conference  
RODNEY GILSTRAP, JUDGE PRESIDING  
September 20, 2012**

**OPEN: 10:00 am**

**ADJOURN: 2:50 pm**

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ATTORNEYS FOR PLAINTIFF:	See attached
ATTORNEY FOR DEFENDANTS:	See attached
LAW CLERK:	Nick Mathews
COURT REPORTER:	Melissa Carson
COURTROOM DEPUTY:	Becky Andrews

Court opened. Case called. Michael Smith announced ready and introduced co-counsel. Tom Melsheimer announced ready and introduced co-counsel. Lance Lee announced ready and introduced co-counsel. Glenn Thames announced ready and introduced co-counsel. Brett Govett announced ready and introduced co-counsel. David Conrad announced. Wesley Hill announced ready.

The Court gave the parties instructions.

10:08 - Wes Hill presented Motion to Sever on behalf of certain defendants.

10:10 – Ophelia Camina responded for Plaintiff.

10:15 – Norman Zivin responded for WTH/NLG.

10:19 – The Court denied the Motion to Sever.

The Court informed the parties that jury selection will be Monday, October 1, 2012 at 9:00 a.m. The trial will begin on Monday, October 8, 2012 at 8:30 a.m. The parties will have 30 minutes per side for voir dire. There will be 8 jurors selected. An evidentiary hearing will be held on Tuesday, October 2, 2012 at 9:00 a.m. for additional matters before trial. Each day before trial,

the Court will be in chambers at 7:30 a.m. to take up any issues. Juror notebooks will be prepared jointly by the parties. A sample notebook may be viewed today at the lunch hour. There should be 10 notebooks, 8 for the jurors and 2 for the Court. The Court gave the parties further instructions.

10:32 – Wes Hill presented the Motion to Strike Supplemental Expert Reports.

10:45 – Ian Crosby responded for Plaintiff. The Court questioned Mr. Crosby.

11:00 – Response by Wes Hill.

11:05 – Jacob Maskovich also responded for ICE/OVS.

11:10 – Response by Mr. Crosby.

11:17 – Wes Hill responded.

11:24 – Ophelia Carmina responded further for Plaintiff.

11:25 – The Court will take the motion to strike under consideration.

11:27 – Recess for 10 minutes.

11:43 – Court resumed. The Court ordered the parties to meet and confer until 1:00 p.m.

11:45 – Recess for lunch.

1:05 – The Court understands that the parties have met and conferred. There are still issues outstanding. The parties are to continue to meet and confer and let the Court know by the end of the day tomorrow. Next the Court will take up the motions in limine.

Plaintiff's Motions in Limine -

1:07 – Michael Smith presented plaintiff's objection to defendants' motion in limine No. 1

1:11 – Norman Zivin responded. The Court will carry.

1:16 – Mr. Smith presented limine No. 2. Mr. Zivin responded. The Court ruled..

1:19 – Mr. Smith presented limine No. 3. Response by Carl Bruce. The Court ruled.

1:22 – Mr. Smith presented limine No. 4. Response by Tom Melsheimer. The Court ruled.

1:27 – Mr. Smith presented limine No. 5. Response by Tom Melsheimer. The Court ruled.

1:30 – Mr. Smith presented limine No. 6. Response by Brett Govett. Mr. Smith responded further. The Court ruled.

1:34 – Mr. Smith presented limine No. 7. Response by Brett Govett. Limine agreed.

1:36 – Mr. Smith presented limine No. 9. The Court ruled.

1:37 – Mr. Smith presented limine No. 10. Response by Norman Zivin. Mr. Smith clarified the disagreement. The Court ruled.

1:40 – Regarding limine Nos. 11 and 12. The Court will carry. Mr. Govett asked the Court if he could point out an issue with No. 11.

1:45 – Louis Hoffman responded the issue brought up by Mr. Govett.

1:49 – Mr. Smith presented limine No. 14. Response by Katrina Eash. The Court ruled.

1:51 – Mr. Smith presented limine No. 15. Response by Norman Zivin. The Court ruled.

1:57 – Mr. Smith presented limine No. 16. Carl Bruce responded. The Court ruled.

1:59 – Mr. Smith presented limine No. 18. Carl Bruce responded. The Court ruled.

2:03 – Mr. Smith presented limine No. 19. Response by George Chen. The Court ruled.

2:06 – Mr. Smith presented limine No. 20. Carl Bruce responded. The Court will carry. The parties will meet and confer regarding this issue.

Defendants' Motions in Limine –

2:10 – Norman Zivin presented limine No. 2. Response by Ms. Carmina. The Court ruled.

2:15 – David Conrad presented limine No. 4. Response by Ms. Carmina. The Court ruled.

2:17 – Glenn Thames presented limine No. 6. Response by Ms. Carmina. The Court ruled.

2:21 – Katrina Eash presented limine No. 7. Response by Ms. Carmina. Ms. Eash responded further. The Court ruled.

2:25 – George Chen presented limine No. 10. Response by Ms. Carmina. The Court will carry part A of the limine. The Court ruled on part B.

2:34 - The Court will carry limine No. 11.

Motions in Limine by NLG –

2:35 – Norman Zivin presented limine No. 3. Response by Ms. Carmina. The Court ruled.

Regarding the pending exhibits. The Court directed the parties to meet and confer and prepare a joint report by September 26<sup>th</sup> setting out the disputed exhibits.

The Court will take up the remaining pretrial matters on Tuesday, October 2, 2012.

Mr. Crosby asked the Court for clarification regarding the meet and confer. The Court responded.

Mr. Melsheimer inquired as to the scheduling of the trial week. The Court gave the parties further instructions.

2:50 – Court adjourned.